

FAIR SHARE HOUSING CENTER,)
INC., NEW JERSEY COUNCIL OF)
CHURCHES, CAMDEN COUNTY BRANCH)
OF THE N.A.A.C.P. and SOUTHERN)
BURLINGTON COUNTY, BRANCH OF)
THE N.A.A.C.P.,)

Plaintiffs,)

v.)

TOWNSHIP OF CHERRY HILL, NEW)
JERSEY,)

Defendant.)

COUNCIL ON AFFORDABLE HOUSING
DOCKET NO. 87-7

Civil Action

OPINION

This matter comes before the Council on Affordable Housing (Council) upon the motion of the Township of Cherry Hill (Cherry Hill) to exempt a certain parcel of land from an Order of the Honorable L. Anthony Gibson, J.S.C., which imposed restraints upon development of municipally owned land in Cherry Hill as a condition of transfer to the Council. The facts of this matter are basically undisputed.

Judge Gibson transferred this case to the Council pursuant to N.J.S.A. 52:27D-316(b) by Order dated January 23, 1986. This transfer was with the condition that Cherry Hill be restrained from the sale or and/or development of all parcels of township owned land of three acres or more in size. Judge Gibson reaffirmed the transfer with conditions by Order dated July 22, 1986.

Cherry Hill now seeks an exemption from these restraints from the Council. More specifically, Cherry Hill is requesting the Council to exempt Block 521, Lots 4 & 5, also known as the De Cou Property, from Judge Gibson's Order. The De Cou Property consists of approximately 69.06 acres of which 66.20 are useable acres. Cherry Hill purchased this property by Deed dated October 19, 1973. Cherry Hill dedicated the property for park purposes by Deed of

Dedication dated June 30, 1975. The property is listed on the Green Acres inventory, however, it was not purchased with Green Acre funds nor have any Green Acres funds been utilized to date for the property.

Presently, the property contains baseball fields, a rugby field, a multi-purpose play field and two parking areas. The property also has a stream and associated wetlands. Cherry Hill is seeking the exemption so that it may develop the property and build three soccer fields and an additional parking area. Cherry Hill also seeks to lease, on a long term basis, 13 acres located at the northern part of the property to the Cherry Hill Board of Education. The Board of Education plans to use the property for soccer playing.

The Council now must consider whether to exempt the property in question from the restraints imposed by the transfer Order. After careful consideration of the facts and circumstances of this matter, the Council is satisfied that the restraints relating to Block 521, Lots 4 & 5, should be dissolved. The property was purchased by Cherry Hill in 1973 and dedicated for park and recreation purposes in 1975. Cherry Hill has utilized the property solely for park and recreation purposes since the purchase fourteen years ago. In furtherance of these purposes Cherry Hill developed playing fields and recreation areas on the property. In this motion Cherry Hill simply seeks to continue the existing use of the property and develop additional playing fields to accommodate the public. This is not a situation where Cherry Hill is seeking to exempt a totally vacant, undeveloped site.

The affidavits submitted in support of Cherry Hill's motion indicate that Cherry Hill plans to lease, on a long term basis, the northerly 13 acres to the Board of Education. The Board of Education plans to use the 13 acres for soccer fields which will be used by students and the general public. Thus, while the Board of Education, by virtue of the lease, will have certain legal rights regarding the 13 acres, it will continue the use for which the property has already been developed. Therefore, for purposes of this motion, the Council will view the property as a whole and not separate the 13 acres which will be leased to the Board of Education from the remainder of the property.

Accordingly, the Council hereby grants Cherry Hill's motion and releases Block 521, Lots 4 & 5 from the existing restraints. The Council has entered an appropriate Order embodying this opinion.

Arthur R. Kondrup
Chairman

DATED: